

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-284

May 7, 2003

PUBLIC UTILITIES COMMISSION
Utility Service Area and Infrastructure
Maps (Chapter 140)

ORDER ON WAIVER

On October 19, 2001, the Commission adopted Chapter 140 of its Rules to require certain public utilities to develop, maintain, and file with the Commission maps of their service area and key infrastructure. *PUBLIC UTILITIES COMMISSION, Utility Service Area and Infrastructure Maps (Chapter 140)*, Docket No. 2001-284, Order Adopting Rule and Statement of Factual and Policy Basis (Oct. 19, 2001) (Chapter 140 Order). That Rule, which became effective on October 29, 2001, requires interexchange carriers (IXCs) to develop and current maps of their key infrastructure in both paper and electronic (GIS) form, and to file such maps by July 1, 2002. MPUC Rules, ch. 140, §§ 3(A) and 3(F)(1)(a). The Rule allows a waiver “where good cause exists” and “the granting of the waiver would not be inconsistent with the purposes of [Chapter 140] or Title 35-A.” MPUC Rules, ch. 140, § 4.

AT&T Communications of New England, Inc. (AT&T) forwarded infrastructure maps and information on its facilities in Maine on March 25, 2003. In its letter transmitting that information, AT&T stated:

AT&T believes that the enclosed documents provide the necessary information for the objective of Chapter 140 and provide the Commission with critical information regarding AT&T’s infrastructure and service area in Maine. However, in the event the Commission believes that additional information is required by Chapter 140, AT&T respectfully requests the Commission grant a waiver *nunc pro tunc* pursuant to Chapter 140 Section 4. AT&T submits that there is good cause to grant the waiver due to the critical infrastructure information and the vulnerability of said infrastructure should the information be disclosed. (sic)

In its waiver request, AT&T stressed that “locations of our critical assets must be more carefully protected then ever before” and that “AT&T understands that all governmental organizations requesting our information have every intention of protecting it.” AT&T stated, however, that “every organization that has access to any portion of our proprietary network information presents additional risk of compromise.” AT&T raised a concern “about the unintentional release of the information by the Commission, either by staff, contractors, data center operators, contract personnel,

temporary employees, or part-time programmer.”¹

On April 1, 2003, the Commission Staff advised AT&T that its filing did not satisfy Chapter 140 requirements, and listed specific areas where additional information would be required to meet the requirements of that Rule. On April 18, 2003, AT&T supplemented its March 25 filing. The supplemental filing fails to meet Chapter 140 requirements that maps be georeferenced so that features can be located “within $\pm 40'$ ($\pm 12.2\text{m}$) of their actual location on the ground.” MPUC Rules, ch. 140, § 1(C) & 1(D). AT&T stated that it “has not provided this information because doing so would release highly specific information regarding AT&T’s fiber routes and could compromise the security of AT&T’s facilities.” In short, AT&T continues to be in noncompliance with Chapter 140. See *Public Utilities Commission, Investigation of AT&T of New England, Inc. for Failure to Comply with Requirements of Chapter 140 (Utility Service Area and Infrastructure Maps)*, Docket No. 2003-129, Notice of Investigation and Contempt Proceeding; Show Cause Order (March 3, 2003). AT&T stated that “if the information requested were used in conjunction with the V&H coordinates of other utilities’ routes, it could compromise the security of the overall telecommunications facilities in the State as well.” AT&T stated that good cause exists for its waiver request “since acts of terrorism have been added to our list of other natural and manmade incidents of concern.”

The Commission has previously stated that it is “acutely sensitive to potential security issues related to utility infrastructure,” as AT&T apparently acknowledges, and specifically addressed the national tragedy of September 11, 2001 in the Chapter 140 Order that it issued the month following those events. Chapter 140 Order at 9. In its request, AT&T did not raise any issues that the Commission has not already addressed in adopting confidentiality provisions of Chapter 140.

In its waiver request, AT&T stated that it “would be pleased to host Maine at the Global (sic) its management, control and security techniques that support the protection of the critical infrastructure that is deployed throughout the state of Maine.” In its April 18, 2003 letter, AT&T suggested such a “meeting between staff and AT&T would help enhance communication” on these issues, offering to host such a meeting at its corporate headquarters in New Jersey.

The Commission has acknowledged the importance of protecting confidential infrastructure information, has implemented requirements of Maine law that require the Commission to “take appropriate steps to protect such information in its possession”

¹ In its March 25, 2003 letter, AT&T also stated that it “would like to invoke the additional new protections afforded by the recent legislation creating the Department of Homeland Security.” That legislation, 6 U.S.C. § 133(a)(1)(E), requires a state to provide protection of critical infrastructure information that is *voluntarily* submitted to a covered Federal agency, if it is also provided to the state. The legislation, however, explicitly does not limit the ability of a state agency to obtain such information independently. 6 U.S.C. § 133(c). AT&T’s “invocation” is thus not applicable under Chapter 140.

(35-A M.R.S.A. § 1311-B (2)), and will continue to exercise the “abundance of caution” it identified in the Chapter 140 Order.

Because AT&T raised no new issues related to the security of key infrastructure information not already comprehensively addressed by the Commission, good cause for the requested waiver has not been shown and accordingly, the waiver requested by AT&T Communications of New England, Inc. on March 25, 2003 is not granted.

BY ORDER OF THE DIRECTOR
OF TECHNICAL ANALYSIS

Faith Huntington
Acting Director of Technical Analysis